IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO.863 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08.04.1999 in W.P.NO.22392 of 1997 on the file of the High Court.)

Between:

G.Raju, S/o.Kanakatata, 29 years, R/o.Visakhapatnam District.

...APPELLANT/

(PETITIONER)

AND

Visakhapatnam Dock Labour Board, Rep.by its Deputy Chairman, Visakhapatnam District.

...RESPONDENT/

(RESPONDENT)

Counsel for the Appellant: MR.V.SRINIVAS

Counsel for the Respondent: MR.K.SRINIVASAMURTHY

The Court made the following:

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO.863 of 1999

JUDGMENT: (Per the Hon'ble Mr Justice Ghulam Mohammed)

The petitioner sought for appointment in the Visakhapatnam Dock Labour Board on compassionate grounds. The only contention of the petitioner was that he is the son of the erstwhile employee of the respondent-company i.e., one Mr.Kanakatata, who was the Mazdoor with ticket No.9703 and retired on medical grounds and therefore, he is entitled for appointment under the scheme for appointment on compassionate grounds.

Before the learned Single Judge, the petitioner relied on certain guidelines issued by the respondent-company seeking his compassionate appointment. The learned Single Judge declined to grant any relief observing that the father of the petitioner was not retired by the management by invalidating him on medical grounds nor he was retired on medical grounds and that the father of the petitioner was himself

opted for voluntary retirement and received certain benefits from the respondent-company also and therefore, held that guidelines relied on by the petitioner are not applicable. In this view of the matter, the learned Single Judge rightly declined to entertain the Writ Petition. However, the learned counsel for the appellant-writ petitioner relying on the judgment of the Full Bench of this Court in ***Government of A.P. v. D.Gopaiah*** contends that the petitioner is entitled for employment under the Scheme existing in the respondent.

The Full Bench in ***D.Gopaiah***'s case (1 supra) held that:

The basic principles, which emerge from the judicial precedents, are:

1. The right to compassionate appointment is not a vested right.
2. It is in the nature of an exception to the doctrine of equality.
3. The basis of the compassionate appointment is to extend succour to the members of the family, which are confronted by a pitiable situation by reason of the death of the earning member.
4. The Court should not go beyond the formulation of the executive orders.
5. It is desirable to frame statutory rules.
6. The compassionate appointment should not be made in a manner contravening the existing statutory rules and regulations.
7. No Mandamus can be issued to appoint. Only a direction to consider should be issued.

The Full Bench held that appointment on compassionate ground on medical invalidation does not satisfy the requirement of Article 16 of the Constitution of India and any policy decision taken by the State is unconstitutional.

Considering the facts and circumstances of the case, we do not see any grounds to interfere with the order under challenge.

The Writ Appeal fails and it is dismissed accordingly. No costs.

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(J.CHELAMESWAR , J)

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(GHULAM MOHAMMED, J)

1st March 2005

RRB

DEPUTY REGISTRAR

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SECTION OFFICER

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1. The Deputy Chairman, Visakhapatnam Dock Labour Board, Visakhapatnam District.
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